

Notice of Allowability

Application No.

09/290,049

Examiner

Rodney P. Swartz, Ph.D.

Applicant(s)

SMITH ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18February2004.
2. ☒ The allowed claim(s) is/are 21-23 and 81-105.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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DETAILED ACTION

1. Applicants' Response to Office Action, received 18February2004, is acknowledged. Claims 21, 23, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, and 105 have been amended. Claims 25, 28, and 33 have been cancelled.
2. Claims 21-23, and 81-105 are pending and under consideration.

Rejections Moot/Withdrawn

3. The provisional rejection of claim 25, under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-15 of copending Application No. 09/562,328, is moot in light of the cancellation of the claim.
4. The rejection of claims 28 and 33 under 35 U.S.C. 112, second paragraph, as being indefinite for the positions of the claimed amino acids, is moot in light of the cancellation of the claims.
5. The rejection of claims 25, 28, and 33 under 35 U.S.C. 112, second paragraph, as being indefinite for an amino acid subunit of glucosyltransferase **of 15-21 amino acids in length** comprising a larger amino acid sequence, i.e., 22 amino acids in length, is moot in light of the cancellation of the claims.
6. The provisional rejection of claims 28 and 33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-15 of copending Application No. 09/562,328, is moot in light of the cancellation of the claims.
7. The provisional rejection of claims 21, and 22, under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-15 of copending Application No. 09/562,328, is withdrawn in light of the cancellation of claims 12-15 of copending Application No. 09/562,328

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8. The provisional rejection of claims 23 and 81-105 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-15 of copending Application No. 09/562,328, is withdrawn in light of the cancellation of claims 12-15 of copending Application No. 09/562,328

9. The rejection of claims 23 and 105 under 35 U.S.C. 112, second paragraph, as being indefinite for the positions of the claimed amino acids, is withdrawn in light of the amendments of the claims.

10. The rejection of claims 21-23 and 88-105 under 35 U.S.C. 112, second paragraph, as being indefinite for an amino acid subunit of glucosyltransferase ***of 15-21 amino acids in length*** comprising a larger amino acid sequence, i.e., 22 amino acids in length, is withdrawn in light of the amendments of the claims.

Conclusion

11. Claims 21-23, and 81-105 are allowed over the prior art of record.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

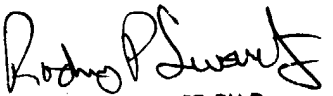
If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RODNEY P. SWARTZ, PH.D.
PRIMARY EXAMINER
Art Unit 1645

May 10, 2004